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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

ANNUAL AUDITED REPORT  
FORM X-17A-5  
PART III

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Information Required of Brokers and Dealers Pursuant to Section 17 of the  
Securities Exchange Act of 1934 and Rule 17a-5 Thereunder

REPORT FOR THE PERIOD BEGINNING 01/01/08 AND ENDING 12/31/08  
MM/DD/YY MM/DD/YY

A. REGISTRANT IDENTIFICATION

NAME OF BROKER-DEALER: **The Benchmark Company, LLC**

ADDRESS OF PRINCIPAL PLACE OF BUSINESS: (Do not use P.O. Box No.)

**40 Fulton Street, 19th Floor**

(No. and Street)

**New York**

(City)

**NY**

(State)

**10038**

(Zip Code)

NAME AND TELEPHONE NUMBER OF PERSON TO CONTACT IN REGARD TO THIS REPORT

**J Richard Messina**

**(212) 312-6567**

(Area Code - Telephone Number)

B. ACCOUNTANT IDENTIFICATION

INDEPENDENT PUBLIC ACCOUNTANT whose opinion is contained in this Report\*

**Spicer Jeffries LLP**

(Name - if individual, state last, first, middle name)

**5251 S Quebec St, Suite 200**

(Address)

**Greenwood Village**

(City)

**CO**

(State)

**80111**

SEC Mail Processing  
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CHECK ONE:

☒ Certified Public Accountant

☐ Public Accountant

☐ Accountant not resident in United States or any of its possessions.

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FEB 26 2009

Washington, DC  
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\*Claims for exemption from the requirement that the annual report be covered by the opinion of an independent public accountant must be supported by a statement of facts and circumstances relied on as the basis for the exemption. See Section 240.17a-5(e)(2)

THE BENCHMARK COMPANY, LLC  
REPORT PURSUANT TO RULE 17a-5(d)  
YEAR ENDED DECEMBER 31, 2008

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THE BENCHMARK COMPANY, LLC

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## INDEPENDENT AUDITORS' REPORT

The Members of  
The Benchmark Company, LLC

We have audited the accompanying statement of financial condition of The Benchmark Company, LLC as of December 31, 2008, and the related statements of operations, changes in members' equity and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of The Benchmark Company, LLC as of December 31, 2008, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

Our audit was made for the purpose of forming an opinion on the financial statements taken as a whole. The information contained in the supplemental schedule listed in the accompanying index is presented for purposes of additional analysis and are not required for a fair presentation of the financial statements, but are supplementary information required by Rule 17a-5 of the Securities and Exchange Commission. Such information has been subjected to the auditing procedures applied in our audit of the financial statements and, in our opinion, is fairly stated in all material respects in relation to the financial statements taken as a whole.

Greenwood Village, Colorado  
January 30, 2009



**THE BENCHMARK COMPANY, LLC**  
**STATEMENT OF FINANCIAL CONDITION**  
**DECEMBER 31, 2008**

**ASSETS**

Cash and cash equivalents	\$ 799,358
Receivable from clearing broker	12,039,339
Securities owned, at fair value (Note 3)	1,612,625
Furniture and equipment, net of accumulated depreciation of \$718,492	190,364
Other assets	<u>145,572</u>
	<b><u>\$ 14,787,258</u></b>

**LIABILITIES AND MEMBERS' EQUITY**

**LIABILITIES:**

Due to clearing broker	\$ 6,999,303
Accounts payable	3,289,730
Commissions and salaries payable	1,424,030
Securities sold, not yet purchased, at fair value (Note 3)	<u>108,470</u>

*Total liabilities* 11,821,533

**COMMITMENTS AND CONTINGENCIES (Notes 4 and 5)**

**MEMBERS' EQUITY (Note 2)** 2,965,725

**\$ 14,787,258**

THE BENCHMARK COMPANY, LLC

STATEMENT OF OPERATIONS  
YEAR ENDED DECEMBER 31, 2008

**REVENUES:**

Commissions	\$ 26,616,630
Trading profit, net	7,518,084
Other	<u>1,471,569</u>

*Total revenues* 35,606,283

**EXPENSES:**

Commissions and salaries	22,293,697
General and administrative	5,420,076
Travel and entertainment	2,586,083
Communications and data processing	2,224,414
Clearance and floor brokerage fees	1,589,950
Professional fees	615,069
Occupancy	538,684
Interest expense	116,109
Depreciation	<u>58,000</u>

*Total expenses* 35,442,082

**NET INCOME** \$ 164,201

**THE BENCHMARK COMPANY, LLC**  
**STATEMENT OF CHANGES MEMBERS' EQUITY**  
**YEAR ENDED DECEMBER 31, 2008**

<b>BALANCE, December 31, 2007</b>	<b>\$ 2,801,524</b>
Net income	<u>164,201</u>
<b>BALANCE, December 31, 2008</b>	<b><u>\$ 2,965,725</u></b>

The accompanying notes are an integral part of this statement.

**THE BENCHMARK COMPANY, LLC**

**STATEMENT OF CASH FLOWS**  
**YEAR ENDED DECEMBER 31, 2008**

**CASH FLOWS FROM OPERATING ACTIVITIES:**

Net income	\$ 164,201
Adjustments to reconcile net income to net cash used in operating activities:	
Depreciation and amortization	58,000
Increase in receivable from clearing broker	(4,622,959)
Increase in securities owned, at market value	(228,352)
Decrease in commissions and salaries payable	(186,542)
Increase in accounts payable	2,102,187
Increase in securities sold, not yet purchased	19,595
Increase in due to clearing broker	<u>2,594,380</u>

**NET DECREASE IN CASH AND CASH EQUIVALENTS** (99,490)

**CASH AND CASH EQUIVALENTS, at beginning of year** 898,848

**CASH AND CASH EQUIVALENTS, at end of year** **\$ 799,358**

**SUPPLEMENTAL DISCLOSURE OF CASH FLOW INFORMATION:**

Cash paid during the year for interest **\$ 116,109**



NOTES TO FINANCIAL STATEMENTS

**NOTE 1 - ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Organization and Business**

The Company was originally incorporated in New York on June 22, 1988. During 2003, the Company contributed all of its assets and liabilities to a limited liability company and continues to be registered as a broker-dealer in securities with the Securities and Exchange Commission and is a member of the Financial Industry Regulatory Authority, Inc.

**Clearing Agreement**

The Company under Rule 15c3-3(k)(2)(ii) is exempt from the reserve and possession or control requirements of Rule 15c3-3 of the Securities and Exchange Commission. The Company does not carry or clear customer accounts. Accordingly, all customer transactions are executed and cleared on behalf of the Company by its clearing broker on a fully disclosed basis. The Company's agreement with its clearing broker provides that as clearing broker, that firm will make and keep such records of the transactions effected and cleared in the customer accounts as are customarily made and kept by a clearing broker pursuant to the requirements of Rules 17a-3 and 17a-4 of the Securities and Exchange Act of 1934, as amended (the "Act"). It also performs all services customarily incident thereon, including the preparation and distribution of customer's confirmations and statements and maintenance margin requirements under the Act and the Rules of the Self Regulatory Organizations of which the Company is a member.

**Basis of Accounting**

The Company records securities transactions and related revenue and expenses on a trade-date basis. Securities owned or sold, but not yet purchased by the Company (substantially common stock) are recorded at fair value and related changes in market value are reflected in income.

**Securities Owned or Sold, not yet Purchased**

The Company adopted the provisions of SFAS No. 157, "Fair Value Measurements" (SFAS No. 157), effective January 1, 2008. Under SFAS No. 157, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (i.e., the "exit price") in an orderly transaction between market participants at the measurement date.

In determining fair value, the Company uses various valuation approaches. SFAS No. 157 establishes a fair value hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are those that market participants would use in pricing the asset or liability based on market data obtained from sources independent of the Company. Unobservable inputs reflect the Company's assumption about the inputs market participants would use in pricing the asset or liability developed based on the best information available in the circumstances. The fair value hierarchy is categorized into three levels based on the inputs as follows:

Level 1 - Valuations based on unadjusted quoted prices in active markets for identical assets or liabilities that the Company has the ability to access. Valuation adjustments and blockage discounts are not applied to Level 1 securities. Since valuations are based on quoted prices that are readily and regularly available in an active market, valuation of these securities does not entail a significant degree of judgment.

# THE BENCHMARK COMPANY, LLC

## NOTES TO FINANCIAL STATEMENTS

### **NOTE 1 - ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (continued)

#### **Securities Owned or Sold, not yet Purchased** (concluded)

Level 2 - Valuations based on quoted prices in markets that are not active or for which all significant inputs are observable, either directly or indirectly.

Level 3 - Valuations based on inputs that are unobservable and significant to the overall fair value measurement.

The availability of valuation techniques and observable inputs can vary from security to security and is affected by a wide variety of factors, including the type of security, whether the security is new and not yet established in the marketplace, and other characteristics particular to the transaction. To the extent that valuation is based on models or inputs that are less observable or unobservable in the market, the determination of fair value requires more judgment. Those estimated values do not necessarily represent the amounts that may be ultimately realized due to the occurrence of future circumstances that cannot be reasonably determined. Because of the inherent uncertainty of valuation, those estimated values may be materially higher or lower than the values that would have been used had a ready market for the securities existed. Accordingly, the degree of judgment exercised by the Company in determining fair value is greatest for securities categorized in Level 3. In certain cases, the inputs used to measure fair value may fall into different levels of the fair value hierarchy. In such cases, for disclosure purposes, the level in the fair value hierarchy within which the fair value measurement falls in its entirety is determined by the lowest level input that is significant to the fair value measurement.

Fair value is a market-based measure considered from the perspective of a market participant rather than an entity-specific measure. Therefore, even when market assumptions are not readily available, the Company's own assumptions are set to reflect those that market participants would use in pricing the asset or liability at the measurement date. The Company uses prices and inputs that are current as of the measurement date, including during periods of market dislocation. In periods of market dislocation, the observability of prices and inputs may be reduced for many securities. This condition could cause a security to be reclassified to a lower level within the fair value hierarchy.

The Company values investments in securities and securities sold, not yet purchased that are freely tradable and are listed on a national securities exchange or reported on the NASDAQ national market at their last sales price as of the last business day of the year. The Company considers these securities as Level 1 securities.

#### **Depreciation**

The Company provides for depreciation of furniture and equipment on the straight-line method based on the estimated useful lives of the assets ranging from five to seven years.

#### **Cash and Cash Equivalents**

For purposes of cash flows, the Company considers highly liquid investments with a maturity of three months or less to be cash equivalents.

#### **Income Taxes**

The Company is not considered a separate taxable entity for tax purposes. All income is reported on the respective members' tax return.

**THE BENCHMARK COMPANY, LLC**

**NOTES TO FINANCIAL STATEMENTS**

**NOTE 1 - ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES** (concluded)

**Use of Estimates**

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

**NOTE 2 - NET CAPITAL REQUIREMENTS**

Pursuant to the net capital provisions of Rule 15c3-1 of the Securities Exchange Act of 1934, the Company is required to maintain a minimum net capital, as defined under such provisions. At December 31, 2008, the Company has net capital and net capital requirements of \$2,271,508 and \$620,000 respectively. The Company's net capital ratio (aggregate indebtedness to net capital) was 2.08 to 1. According to Rule 15c3-1, the Company's net capital ratio shall not exceed 15 to 1.

**NOTE 3 - FAIR VALUE MEASUREMENTS**

The Company's assets and liabilities recorded at fair value have been categorized based upon a fair value hierarchy in accordance with SFAS No. 157. See Note 1 for a discussion of the Company's policies.

The following table presents information about the Company's assets and liabilities measured at fair value as of December 31, 2008:

	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Balances at December 31, 2008
<b>Assets:</b>				
Securities owned, at fair value	\$ 1,612,625	\$ -	\$ -	\$ 1,612,625
<b>Liabilities:</b>				
Securities sold, not yet purchased, at fair value	\$ 108,470	\$ -	\$ -	\$ 108,470

THE BENCHMARK COMPANY, LLC

NOTES TO FINANCIAL STATEMENTS

**NOTE 4 - COMMITMENTS**

The Company leases office space under noncancellable operating leases expiring through January 2018. At December 31, 2008, aggregate minimum future rental commitments under these leases with initial or remaining terms in excess of one year are as follows:

<u>Fiscal year</u>	<u>Amount</u>
2009	\$ 422,022
2010	424,627
2011	427,232
2012	429,837
2013	422,456
Thereafter	<u>2,340,000</u>
	<u>\$ 4,466,174</u>

Total rental expense of \$441,065 including the noncancellable leases referred to above, was charged to operations during the year ended December 31, 2008.

**NOTE 5 - FINANCIAL INSTRUMENTS, OFF-BALANCE SHEET RISKS AND CONTINGENCIES**

In the normal course of business, the Company's client activities ("clients") through its clearing broker involve the execution, settlement, and financing of various client securities transactions. These activities may expose the Company to off-balance sheet risk. In the event the client fails to satisfy its obligations, the Company may be required to purchase or sell financial instruments at prevailing market prices in order to fulfill the client's obligations.

In the Company's trading activities, the Company has purchased securities for its own account and has sold securities that it does not own and may incur losses if the market value of the securities changes subsequent to December 31, 2008.

The Company has a substantial portion of its assets on deposit with banks and clearing brokers. Assets deposited with banks and clearing brokers are subject to credit risk. In the event of a bank's or clearing broker's insolvency, recovery of the Company's assets on deposit may be limited to account insurance or other protection afforded such deposits. As of December 31, 2008, the Company had cash of \$224,157 in excess of the federally insured amount of \$250,000.

The Company's financial instruments, including cash, receivables and other assets are carried at amounts which approximate fair value. Securities owned or sold, but not yet purchased are valued at fair value using quoted market prices. Payables and other liabilities are carried at amounts which approximate fair value.

**SUPPLEMENTARY INFORMATION**

**THE BENCHMARK COMPANY, LLC**

**COMPUTATION OF NET CAPITAL PURSUANT TO UNIFORM  
NET CAPITAL RULE 15c3-1  
DECEMBER 31, 2008**

**CREDIT:**

Members' equity	\$ 2,965,725
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**DEBITS:**

Nonallowable assets:

Furniture and equipment, net	190,364
Nonallowable securities	3,300
Other assets	<u>145,572</u>

<i>Total debits</i>	<u>339,236</u>
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<i>Net capital before haircuts on securities positions</i>	2,626,489
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Haircuts on securities positions, foreign currency and money market instruments, including undue concentration of \$93,491	<u>354,981</u>
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<b>NET CAPITAL</b>	2,271,508
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Minimum requirements of 6-2/3% of aggregate indebtedness of \$4,713,760, \$620,000 for market making activities or \$100,000, whichever is greater	<u>620,000</u>
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<i>Excess net capital</i>	<u><u>\$ 1,651,508</u></u>
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**AGGREGATE INDEBTEDNESS:**

Due to clearing broker	\$ 6,999,303
Accounts payable	3,289,730
Commissions and salaries payable	1,424,030
Less: liabilities adequately secured by assets	<u>(6,999,303)</u>

<b>TOTAL AGGREGATE INDEBTEDNESS</b>	<u><u>\$ 4,713,760</u></u>
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<b>RATIO OF AGGREGATE INDEBTEDNESS TO NET CAPITAL</b>	<u><u>2.08 to 1</u></u>
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**NOTE:** There are no material differences between the above computation of net capital and the corresponding computation by the Company with the unaudited Form X-17A-5 as of December 31, 2008.



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## **INDEPENDENT AUDITORS' REPORT ON INTERNAL ACCOUNTING CONTROL REQUIRED BY SEC RULE 17a-5**

The Members of  
The Benchmark Company, LLC

In planning and performing our audit of the financial statements and supplementary information of The Benchmark Company, LLC (the "Company") as of and for the year ended December 31, 2008, in accordance with auditing standards generally accepted in the United States of America, we considered the Company's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control. Accordingly, we do not express an opinion on the effectiveness of the Company's internal control.

Also, as required by Rule 17a-5(g)(1) of the Securities and Exchange Commission (SEC), we have made a study of the practices and procedures followed by the Company including consideration of control activities for safeguarding securities. This study included tests of such practices and procedures that we considered relevant to the objectives stated in Rule 17a-5(g) in making the periodic computations of aggregate indebtedness and net capital under Rule 17a-3(a)(11) and for determining compliance with the exemptive provisions of Rule 15c3-3. We did not review the practices and procedures followed by the Company in making the quarterly securities examinations, counts, verifications and comparisons, and the recordation of differences required by Rule 17a-13 or complying with the requirements for prompt payment for securities under section 8 of Federal Reserve Regulation T of the Board of Governors of the Federal Reserve System, because the Company does not carry security accounts for customers or perform custodial functions relating to customer securities.

The management of the Company is responsible for establishing and maintaining internal control and the practices and procedures referred to in the preceding paragraph. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures and of the practices and procedures referred to in the preceding paragraph and to assess whether those practices and procedures can be expected to achieve the SEC's above-mentioned objectives. Two of the objectives of internal control and the practices and procedures are to provide management with reasonable, but not absolute assurance that assets for which the Company has responsibility are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in conformity with generally accepted accounting principles. Rule 17a-5(g) lists additional objectives of the practices and procedures listed in the preceding paragraph.

Because of inherent limitations in internal control and the practices and procedures referred to above, errors or fraud may occur and not be detected. Also, projection of any evaluation of them to future periods is subject to the risk that they may become inadequate because of changes in conditions or that the effectiveness of their design and operation may deteriorate. This report recognizes that it is not practicable in an organization the size of the Company to achieve all the divisions of duties and cross-checks generally included in a system of internal accounting control and that alternatively greater reliance must be placed on surveillance by management.

A *control deficiency* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control was for the limited purpose described in the first and second paragraphs and would not necessarily identify all deficiencies in internal control that might be material weaknesses. We did not identify any deficiencies in internal control and control activities for safeguarding securities that we consider to be material weaknesses, as defined above.

We understand that practices and procedures that accomplish the objectives referred to in the second paragraph of this report are considered by the SEC to be adequate for its purposes in accordance with the Securities Exchange Act of 1934 and related regulations, and that practices and procedures that do not accomplish such objectives in all material respects indicate a material inadequacy for such purposes. Based on this understanding and on our study, we believe that the Company's practices and procedures as described in the second paragraph of this report, were adequate at December 31, 2008, to meet the SEC's objectives.

In addition, our review indicated that the Company was in compliance with the conditions of exemption from Rule 15c3-3 pursuant to paragraph k(2)(ii) as of December 31, 2008, and no facts came to our attention to indicate that such conditions had not been complied with during the year.

This report is intended solely for the information and use of the Board of Directors, management, the SEC, the Financial Industry Regulatory Authority, Inc., and other regulatory agencies that rely on Rule 17a-5(g) under the Securities Exchange Act of 1934 in their regulation of registered brokers and dealers, and is not intended to be and should not be used by anyone other than these specified parties.



Greenwood Village, Colorado  
January 30, 2009

**END**